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E-Filed on
April 13, 2010

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

USA Commercial Mortgage Company,

USA Capital Realty Advisors, LLC,¹

USA Capital Diversified Trust Deed Fund,
LLC,

USA Capital First Trust Deed Fund, LLC,²

USA Securities, LLC,³

Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**MOTION TO FURTHER EXTEND
DEADLINE TO FILE OBJECTION
TO ALLOWANCE OF CLAIMS
(with Certificate of Service)**

Date: May 11, 2010
Time: 9:30 a.m.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

The USACM Liquidating Trust (the "USACM Trust") by Lewis and Roca LLP, its counsel, moves for an order pursuant to 11 U.S.C. § 502(b) and Bankruptcy Rules 3007 and 9006(b)(1) enlarging the deadline for filing objections to allowance of claims, and in particular unsecured claims, for an additional 120 days from June 4, 2010 to October 1,

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

1 2010. This Motion is based upon the following Memorandum of Points and Authorities
2 and is supported by the Court's record and the declaration of Edward M. Burr filed this
3 date.

4 **MEMORANDUM**

5 On January 8, 2007, this Court entered its Order Confirming the "Debtors' Third
6 Amended Joint Chapter 11 Plan of Reorganization" as modified herein [DE 2376]. Notice
7 of Entry of the Confirmation Order was filed on January 9, 2007, and served on January
8 11 and 12, 2007 [DE 2387].

9 There is no deadline for claims objections after plan confirmation under either the
10 Bankruptcy Code or Rules. However, Section VII A.1 Objection to Claims of the Plan
11 provides:

12 Unless otherwise extended by the Court, objections to the
13 allowance of Claims and Equity Interests shall be filed and
14 served upon the entities asserting such Claims or Equity
15 Interests as follows: (A) for any and all Claims and Equity
Interests to which the General Bar Date applies, ninety (90)
days after the Effective Date....

16 Accordingly, the deadline to file an objection to such Claim was 90 days after the
17 Effective Date of March 12, 2007, or June 10, 2007. The Court has extended the deadline
18 several times, most recently, on February 1, 2010, it entered an order [DE 7945] extending
19 the deadline to June 4, 2010.
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I. PROOFS OF CLAIM AND CLAIMS OBJECTIONS

A. Overview

Below is an overview of where the claims resolution process stands. These figures are supported by the Declaration of Ted Burr filed in support of this motion. The Burr Declaration also includes a summary of the claims resolved to reach this point:

To date there have been filed:

- seven administrative claims totaling \$2,016,499 — there are no unresolved administrative claims;
- 100 priority claims totaling \$6,975,181 — there is one unresolved priority claim for \$32,844;
- 1668 secured claims filed totaling \$290,860,033 — all secured claims are resolved or have been converted to unsecured claims;
- 1,241 unsecured claims totaling \$635,814,820 — as of August 31, 2009, there were \$317,343,683 unresolved unsecured claims remaining; and
- 69 unknown claims totaling \$316,496 — all unknown claims have been resolved or objected to.

The Trust prosecuted objections to claims, including the Loans known as Opaque Mt Edge \$7,350,000; HFA Riviera; HFA Riviera 2nd; Hasley Canyon; Fiesta Beaumont \$2.4 million; Ashby Financial Company \$7,200,000; Glendale Tower Partners, LLC; Golden State Investments II; 5252 Orange, LLC; Midvale Market Place, LLC; Urban Housing Alliance – 435 Lofts Loan; Boise/Gowen 93, LLC; LCG Gilroy, LLC; J Jireh's Corporation; One Point Street, LLC – HFA North Yonkers; Goss Road Loan; Elizabeth May Real Estate Loan; Slade Development; Wasco Investments, LLC; I-40 Gateway West, LLC 2nd; Cottonwood Hills, LLC; Standard Property Development, LLC; Meadow Creek Partners; I-40 Gateway West; Gateway Stone; Palm Springs Marquis Hotel; Roam Development; Del Valle Isleton; Preserve at Galleria; Copper Sage Commerce I; 3685 San

1 Fernando Road; Bar USA; Bay Pompano Beach; Beastar, LLC; Beau Rivage; Clear
2 Creek; La Hacienda; Rio Rancho Business Park; and Shamrock Tower. The Trust has
3 other adversary proceedings pending that constitute claims objections.

4 Further, as the Trust has received information from claimants, it has entered into
5 stipulations for the allowance and disallowance of priority and unsecured claims.
6 Conversely, some claimants have stipulated to either withdraw their claims or have them
7 reclassified as unsecured claims upon discussion with the USACM Trust's counsel.

8 Direct Lenders have filed proofs of claim asserting money owed based upon 99
9 different loans. To date USACM Trust has objected to proofs of claims based on loans
10 that were repaid in full. There are additional paid in full loans that also have amounts
11 scheduled for unremitted principal, and USACM Trust has objected to the proofs of claims
12 based on these loans.

13 **II. DISCUSSION**

14 This Court has previously considered and granted, after notice, and without
15 opposition, extensions of the Plan's deadline for claim objections under Bankruptcy Rule
16 9006(b)(1), provides that except as otherwise provided by the Rule:

17 when an act is required or allowed to be done at or within a specified period
18 by the rules or by a notice given thereunder or by order of court, the court
19 for cause shall at any time in its discretion (1) with or without motion or
20 notice order the period enlarged if the request therefore is made before the
21 expiration of the period originally prescribed or as extended by a previous
22 order or (2) on motion made after the expiration of the specified period,
23 permit the act to be done where the failure to act was the result of excusable
24 neglect.

22 This request is supported by good cause. Nothing in the Plan prohibits the Court
23 from extending the deadline for objecting to claims. The previous extensions have all
24 been granted without prejudice to further extensions. The Trust has been requesting only
25 120 day extensions so that the Court could monitor the claims process. The other direct
26 lender claims to which the Trustee has yet to object relate mostly to loans that were

1 previously serviced by Compass Partners and have more recently been serviced by Silar or
2 an entity that may be related to Silar called Servicing Oversight Solutions, LLC. As of
3 December 1, 2009, the unresolved unsecured claims total approximately \$215,000,000.
4 That Trust is continuing to gather information about the remaining loans and is preparing
5 additional omnibus objections on a loan by loan basis.

6 For all of these reasons, the USACM Trust believes it needs more than 120 days to
7 complete its review of the claims and file objections, but for now asks only for an 120
8 days, so that the Court can continue to monitor the claims resolution process.

9 **III. CONCLUSION**

10 The USACM Trust requests that the Court enter its order further extending the
11 deadline to file objections to allowance of claims until October 1, 2010, without prejudice
12 to an additional extension.

13 Dated: April 13, 2010.

14
15 **LEWIS AND ROCA LLP**

16
17 By /s/ JH (#018024)

18 Robert M. Charles, Jr., NV 6593

19 John Hinderaker, AZ 18024 (pro hac vice)

20 *Attorneys for USACM Liquidating Trust*
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1 Proof of service

2 Copy of the foregoing posted on the
3 USACM Liquidating Trust website and
4 served on April 13, 2010 via email,
5 where an email address is listed, or by
6 first class mail, postage prepaid U.S.
7 Mail, addressed to:

8
9 All parties in interest listed on the Post
6 Effective Date Service List on file with
7 the Court

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10 s/Renee L. Creswell

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Lewis and Roca LLP